

A. G. Contract No. KR930288TRN
ECS File: JPA 93-21
Project: RRP-000-6(31)P
TRACS: 0940 MA MMA SR029 01C
Section: Elliot Road at Arizona
Public Service Co. Railroad
AAR/DOT No. 748-720-M

INTERGOVERNMENTAL AGREEMENT

BETWEEN

THE STATE OF ARIZONA

AND

MARICOPA COUNTY, ARIZONA

THIS AGREEMENT is entered into 17-June, 1993, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and MARICOPA COUNTY, ARIZONA, acting by and through its Board of Supervisors (the "County").

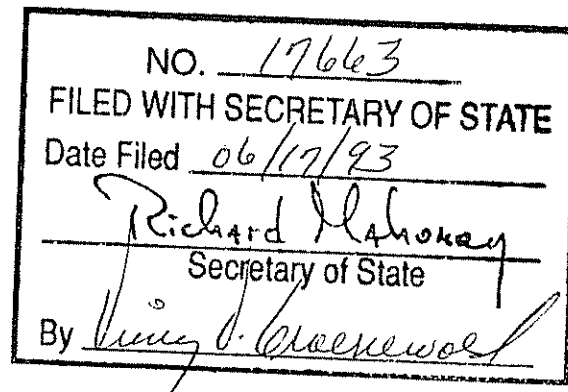
I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The County is empowered by Arizona Revised Statutes Section 11-251 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the County.

3. The Arizona Corporation Commission is empowered by Arizona Revised Statutes Section 40-337 to participate in the funding of this project, and has authorized funds for this project.

4. Congress has authorized appropriations for the erection of automatic warning signals, automatic gate arms, plank crossings, pavement markings, and other appurtenances.



5. Such project within the boundary of the County has been selected by the County; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration ("FHWA") for its approval.

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the County by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The work embraced in this agreement and the estimated cost are as follows: Furnish and Install Flashing Lights

| | | |
|---|------|-----------|
| Preliminary and Construction Engineering | = \$ | 3,000.00 |
| Furnish & Install Flashing Light | | |
| Signals and Automatic Gates | = \$ | 90,286.00 |
| Total Project | = \$ | 93,286.00 |
| Federal Aid Funds at 90% of \$93,286.00 | = \$ | 83,957.00 |
| AZ Corp. Comm. Funds @ 10% of \$93,286.00 | = \$ | 9,329.00 |
| Maricopa County Funds | = \$ | 0.00 |

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. When such project is approved for construction by FHWA and the funds are available for construction of the project, the State with the aid and consent of FHWA will authorize the Railroad Company to proceed with the work covered by the State-Railroad Agreement and will request the maximum federal funds available.

b. Should some unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the State shall not be obligated to incur any expenditure in excess of the amount of the County's deposit unless and until so authorized in writing by the County.

2. The County shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way has been acquired.

3. The County shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom.

4. The County shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the County shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the County.

5. Upon completion of construction, the County shall provide for, at its own cost and as an annual item in its budget, proper maintenance; such maintenance (exclusive of maintenance by the Railroad Company of its facilities) to include, but not be limited to, traffic signals, signs, islands, curbs and markings necessary for the purpose of regulating, warning and guiding traffic.

6. The County shall mark and sign railway-highway grade crossings in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

7. By such regulation as it may by ordinance provide, the County shall regulate parking and not permit vehicles to be left on the street in any manner other than at and parallel with the curb and to restrict parking so as to prevent conflicts with moving traffic.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The County assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost overruns and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the County and that the County hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the County, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and attorneys' fees.

2. The cost of the construction and construction engineering work covered by this agreement is to be borne by FHWA, Arizona Corporation Commission and the County, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, in the event that funds to match federal funds are not made available by the Corporation Commission, the County agrees to furnish and provide the State with County funds in an amount equal to the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work herein embraced; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Room 222E, Mail Drop 616E
Phoenix, AZ 85007

Maricopa County
County Manager
301 W. Jefferson Street
Phoenix, AZ 85003

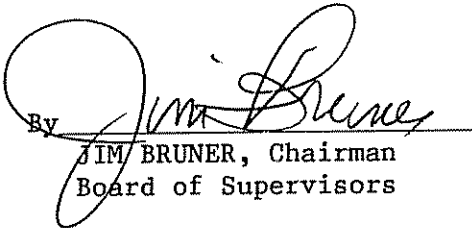
9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

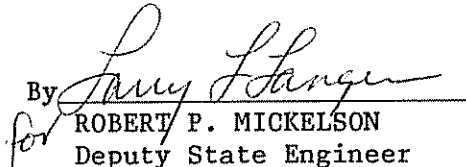
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

MARICOPA COUNTY, ARIZONA

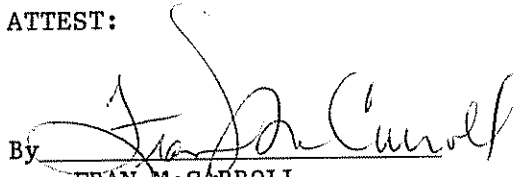
STATE OF ARIZONA

Department of Transportation

By 
JIM BRUNER, Chairman
Board of Supervisors

By 
for ROBERT P. MICKELSON
Deputy State Engineer

ATTEST:


By 
FRAN MCCARROLL
Clerk of the Board

JPA 93-21

RESOLUTION

BE IT RESOLVED on this 5th day of February 1993, that I, THOMAS R. WARNE, as Acting Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the Maricopa County for the purpose of defining responsibilities for the construction and maintenance of railroad crossing improvements at Elliot Road and the Arizona Public Service Company railroad crossing.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Deputy State Engineer for approval and execution.


for THOMAS R. WARNE
Acting Director

COUNTY OF MARICOPA

State of Arizona

Office of the Clerk

State of Arizona)
County of Maricopa) ss.

I, Fran McCarroll, Clerk of the Board of Supervisors do hereby Certify that the attached is a true and correct excerpt from the minutes of the meeting of the Board of Supervisors held May 17, 1993:

INSTALLATION OF FLASHING LIGHTS AT RAILROAD CROSSING ON ELLIOT ROAD

Motion was made by Supervisor Wilcox, seconded by Supervisor King, and unanimously carried to approve an Intergovernmental Agreement with the Arizona Department of Transportation to secure federal funding for the installation of flashing lights at a railroad crossing on Elliot Road near the Palo Verde Nuclear Plant. The County will provide plans and specifications in support of the project and agrees to maintain the warning light after installation. Ninety percent (90%) of the project will be funded by the Federal Highway Administration and 10% by the Arizona Corporation Commission. This agenda item obtains the use of federal funding for the installation of flashing lights and gates. (CS931242) (TD4893) (PW90)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the Board of Supervisors. Done at Phoenix, the County Seat, on the following day:

August 25, 1993


Clerk of the Board of Supervisors

*Transportation
File*

AGENDA FORM

Contract/Lease for ☐ NEW ☐ RENEWAL ☐ AMENDMENT ☐ CANCELLATION
(For existing record Encumbrance No. below)

LOW ORG. NO. 6420 DEPARTMENT: Transportation-Traffic CONTROL NUMBER TD 48-93

ENCUMBRANCE NO. CS 931242 AGENCY: Trans. & Dev. Agency CONTROL NUMBER: PW 90

1. BRIEF DESCRIPTION OF PROPOSAL AND REQUESTED BOARD ACTION:

Approval is sought to enter into an Intergovernmental Agreement with the Arizona Department of Transportation (ADOT) in order to secure federal funding for the installation of flashing lights at a railroad crossing on Elliot Road near the Palo Verde Nuclear Plant. The track is owned by Arizona Public Service Company (APS) and is within the boundaries of the County.

This Agreement obligates the County to provide plans and specifications in support of the warning light installation and to perform maintenance of all installations which are outside APS' maintenance responsibility.

The total project cost is estimated at \$93,286 (including approximately \$3,000 for drawings and specifications prepared by the County). Ninety percent (90%) of this project will be funded by the Federal Highway Administration (FHWA) and ten percent (10%) by the Arizona Corporation Commission.

ADOT's obligation under this agreement is limited to the securing and transferring of the required funds.

This project is located within Supervisory District No. 5. Please return an executed copy to the Clerk of the Board of Supervisors.

2. COMPLIANCE WITH MARICOPA COUNTY PROCUREMENT CODE

10

MCI-1003

article

paragraph

Procurement Officer

SOLE SOURCE JUSTIFICATION

3. CONTINUED FROM MEETING OF
DISCUSSED IN MEETING OF4. ☐ THIS DEPARTMENT WILL CAUSE PUBLICATION
☐ CLERK OF THE BOARD TO CAUSE PUBLICATION

5. MOTION: It is moved that the Maricopa County Board of Supervisors ... approve an Intergovernmental Agreement with the Arizona Department of Transportation to secure federal funding for the installation of flashing lights at a railroad crossing on Elliot Road near the Palo Verde Nuclear Plant. The County will provide plans and specifications in support of the project and agrees to maintain the warning light after installation. Ninety percent (90%) of the project will be funded by the Federal Highway Administration and ten percent (10%) by the Arizona Corporation Commission.

6. FINANCIAL: ☒ Expenditure ☐ Revenue ☒ Budgeted ☐ Contingency ☐ Budget Amendment ☐ Transfer ☐ Grant or other

\$ 3000 FY 93-94
Total

(TRANSPORTATION)
CIP 450

Fund

Ray D. Smith

5-3-93

J. ALLEN V. Finance Officer R. O. Smith

Date

7. PERSONNEL:

Personnel Director

Date

8. DEPARTMENT: Transportation - 6400 AL:ps

DO Aganov

4-23-93

Action Recommended by D. E. Sacramento

Date

9. MATERIALS MANAGEMENT:

A. Materials Management Director DateB. W/MBE Representative Date

10. LEGAL:

Attorney is to learn and advise the board and majority thereof when the laws of the state of Arizona to the Maricopa County Board of Supervisors

G. Neil 4-23-93
Deputy County Attorney G. Neil

Date

11. OTHER:

Signature

Date

12. APPROVED FOR AGENDA: Trans. & Dev. Agency

Asst. Co. Mgr.

L. Schmitt 4-23-93
Approving Official L. Schmitt

Date

13. OTHER:

Signature

Date

15. RECOMMENDATION OF COUNTY MANAGER:

☒ Approve ☐ Disapprove

Comments:

Ronald R. Peterson
County Manager

Date

14. BOARD OF SUPERVISORS: Action taken:

☒ Approved ☐ Amended ☐ Disapproved ☐ Deleted

Continued to:

(Date and type of meeting)

5/17/93

Clerk of the Board

Date

JPA 93-21

APPROVAL OF THE MARICOPA COUNTY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreements, between the STATE OF ARIZONA, acting through the DEPARTMENT OF TRANSPORTATION and MARICOPA COUNTY, and declare this agreement to be in proper form and within the powers and authority granted to the County under the laws of the State of Arizona.

DATED this 23rd day of April, 1993.



County Attorney



93 502489

STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

GRANT WOODS
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

MAIN PHONE : 542-5025
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. KR93-0288-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 14th day of June, 1993.

GRANT WOODS
Attorney General

A handwritten signature in cursive script, reading "James R. Redpath".

JAMES R. REDPATH
Assistant Attorney General
Transportation Section